



Monterey Bay National Marine Sanctuary



MPA Planning Process Update



Recap of Key Steps Along the Way



- ✓ **2001:** Marine Protected Areas (MPAs) identified by the public and the Sanctuary Advisory Council as priority issue for consideration during Joint Management Plan Review
- ✓ **2002:** Marine Protected Area (MPA) Working Group convened under the auspices of the MBNMS's Sanctuary Advisory Council to develop strategies for JMPR's MPA Action Plan
- ✓ **2003:** MPA Working Group completes MPA Draft Action Plan, which is adopted by the SAC
- ✓ **2004-2007:** MPA Working Group turns its focus to continued MPA planning in federal waters during Central Coast MLPA planning process



Steps (cont.)



- ✓ **2006:** MLPA Central Coast Blue Ribbon Task Force delivers its recommendations for MPAs in state waters to CDFG and DFG Commission
- ✓ **April-2007:** MBNMS determines MPA Working Group cannot reach agreement on need for MPAs in federal waters
- ✓ **Sept-2007:** Central Coast MLPA MPAs go into effect
- ✓ **Dec-2007:** MBNMS Superintendent and SAC receives final recommendations on need for MPAs from stakeholder interests represented on MPA Working Group



Steps (cont.)



- ✓ **Feb-2008:** MBNMS Superintendent Michel announces his decision “that there is a need for MPAs in the federal waters of the Sanctuary”
 - 1) Need for areas where natural ecosystem structure and function are restored and maintained;
 - 2) Need for research areas to examine human impacts to the marine environment;
 - 3) Need to preserve some areas in their natural state for future generations.
- NMSP committed to dedicating resources necessary to capitalize on community’s continued input and adequately understand the ecological and socioeconomic impacts on any proposed actions.



Steps To Date (cont.)



- Any proposed action to designate MPAs under National Marine Sanctuary Act and/or Magnuson Stevens Act would be accompanied by full analysis, as required by National Environmental Policy Act and Administrative Procedure Act.
- MBNMS to seek input from SAC, NMFS and Pacific Fisheries Management Council on how best to build on MPA Working Group's efforts to ensure effective and timely public process.



Steps To Date (cont.)



- ✓ **April-2008:** After consultation with NMFS, MBNMS Superintendent provides additional information and rationale for decision “to move forward with a process to propose MPAs in federal waters of the Sanctuary”
 - Primary Purpose: Consider MPAs as potentially effective management tool to move toward a more ecosystem-based approach to implementing MBNMS’s statutory responsibility for “marine resource protection”
 - MSA currently focuses on management of fish stocks along entire west coast, and does not address coordinated, comprehensive ecosystem-based approach to marine resource protection within specially designated areas, e.g., MBNMS



Steps To Date (cont.)



- Clarification of management objectives for additional marine zones in Sanctuary:
 - 1) Preservation of unique and rare places in their natural state for the benefit of future generations;
 - 2) Preservation of areas where natural ecosystem components are maintained and/or restored;
 - 3) Designation of research areas to differentiate between natural variation versus human impacts to ecological processes and components.

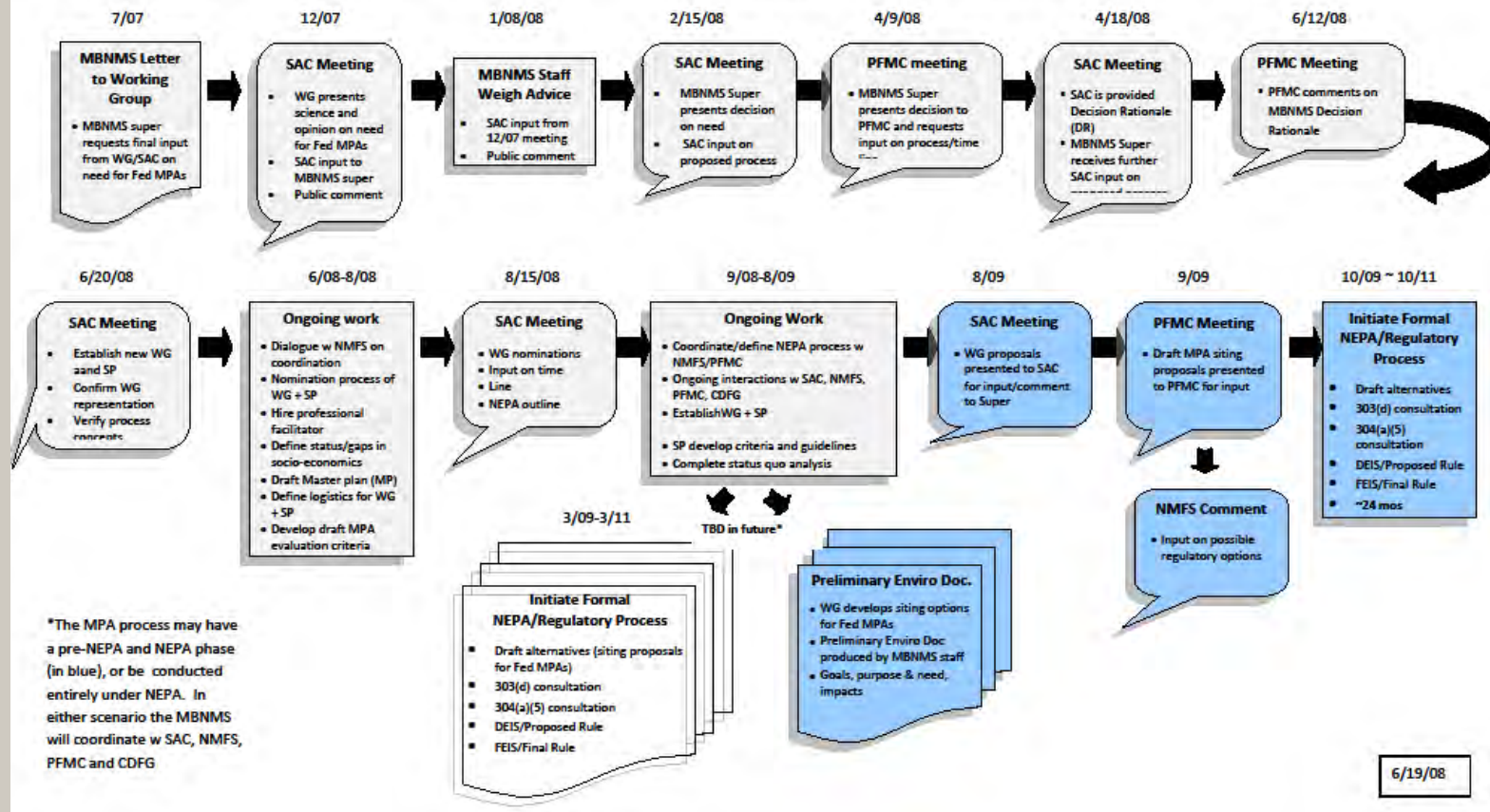


Steps To Date (cont.)



- ✓ **June-2008:** MBNMS Superintendent presents proposed MPA planning process to PFMC and to SAC

DRAFT DECISION PROCESS AND TIMELINE for the MONTEREY BAY NMS CONSIDERATION OF MARINE PROTECTED AREAS





Steps To Date (cont.)



- ✓ **July-2008:** PFMC provides feedback on MBNMS proposed process for moving forward with MPA planning process
 - PFMC is supportive of collaborative review of need for additional MPAs within MBNMS
 - Does not imply support for additional MPAs
 - PFMC anticipates potential benefits to fishery management through increased collaboration with MBNMS because of its broader authorities
 - PFMC process is appropriate forum for developing fishing regulations within MBNMS
 - MBNMS should develop specific evaluation criteria for MPA design, in cooperation with PFMC and both agency's advisory groups, before MPA sites are proposed



Steps To Date (cont.)



- MPA proposal development is policy process
- Scientific review of evaluation criteria and MPA proposals should be done by separate entity
- PFFM offers its SSC and SSC Ecosystem-Based Management Subcommittee to provide scientific input
- All MPA proposals should be contrasted with protections provided by current state and federal regulations (i.e., the “no action” alternative)
- One of the alternatives considered should be the consolidation of existing spatial management measures as a potential mechanism to meet MBNMS objectives



Steps To Date (cont.)



- Monitoring plans should be developed for each proposal being considered
- If final MPA proposals being considered involve fishery regulation, identify which regulation could be adopted under MSA authority and which could only be adopted under NMSA authority



Steps To Date (cont.)



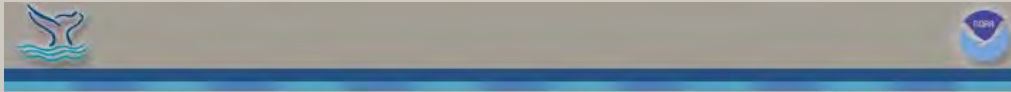
- ✓ **July 28, 2008:** SAC MPA Planning Subcommittee convened
 - Focused on developing recommendations regarding composition, role, application and selection process for new MPA Working Group and Science Advisory Panel being considered by the MBNMS



Steps To Date (cont.)



- ✓ **August 2008:** MBNMS presentation to SAC on Overview of Federal Decision-Making Process



National Environmental Policy Act - **NEPA**

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Steps To Date (cont.)



- ✓ **August 2008:** MBNMS presentation to SAC on Overview of Federal Decision-Making Process



Key Aspects of NEPA



- ✓ Agencies must provide for public participation
- ✓ Agencies must consider potential environmental impacts of their decisions and balance them with mission-related concerns
- ✓ Agencies must always consider a “no action” alternative
- ✓ Does not require agencies to select environmentally preferred alternative
- ✓ NEPA process should serve as an integrating tool to address other regulatory review requirements
- ✓ Other federal, state, and local government agencies and tribes may be “cooperating agencies”
- ✓ Emphasis on agencies making informed decisions

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Steps To Date (cont.)



- ✓ **August 2008:** MBNMS presentation to SAC on Overview of Federal Decision-Making Process



If fishing activities are to be regulated in some way in association with establishing new more protective MPAs within MBNMS, then....

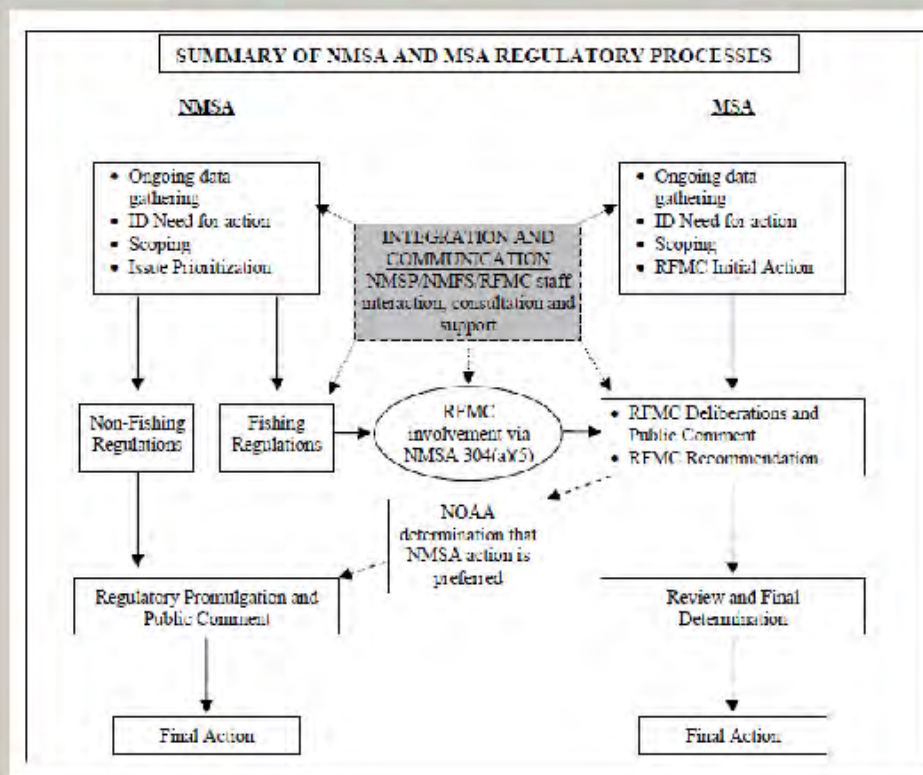


Steps To Date (cont.)



- ✓ **August 2008:** MBNMS presentation to SAC on Overview of Federal Decision-Making Process

Summary of NMSA & MSA Regulatory Processes

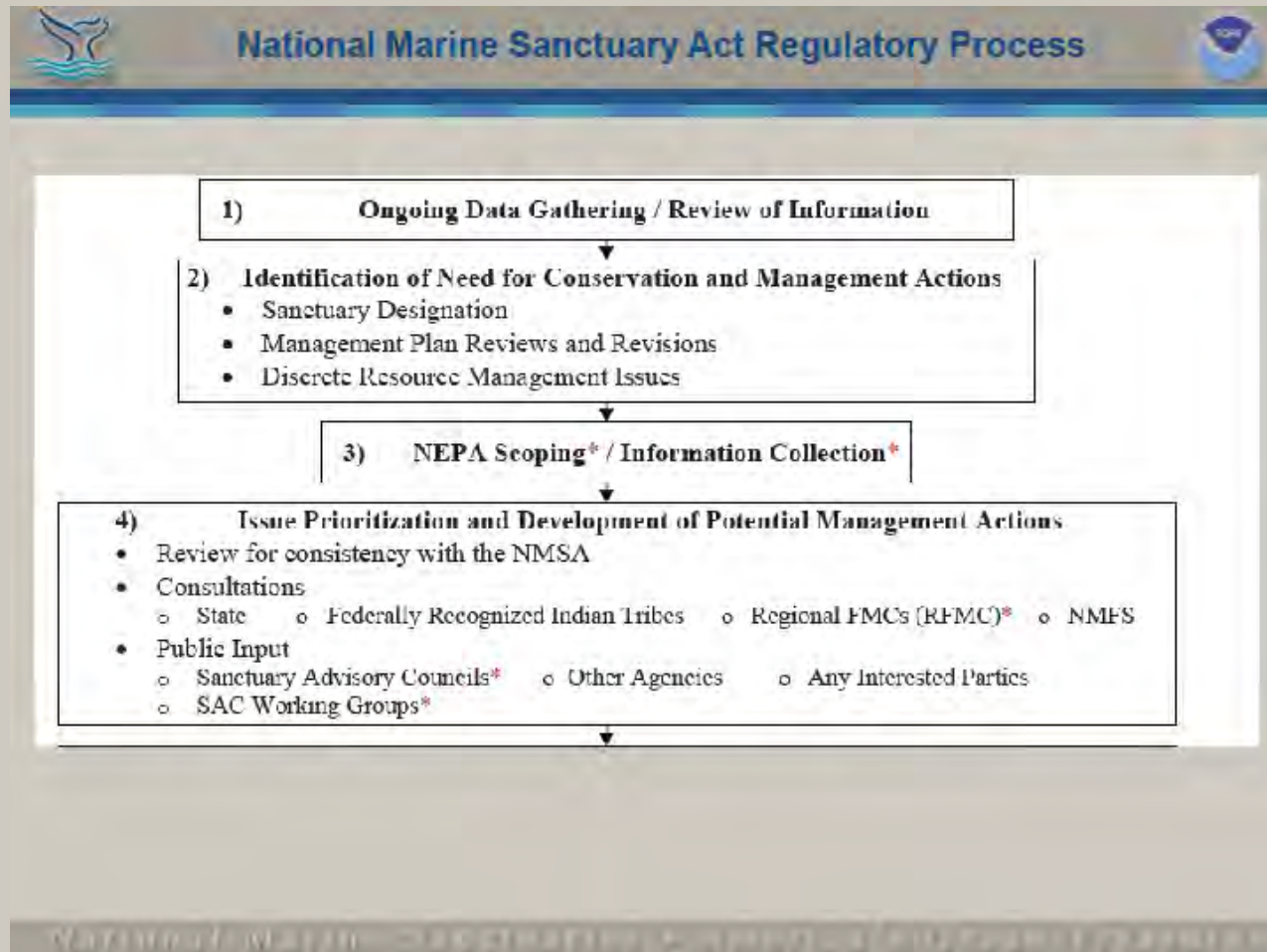




Steps To Date (cont.)



- ✓ **August 2008:** MBNMS presentation to SAC on Overview of Federal Decision-Making Process





FOIA Request



- **October 6, 2008:** Freedom Of Information Act (FOIA) Request Received by NOAA from James Walsh of Davis, Wright & Tremaine, representing the Alliance of Communities for Sustainable Fisheries (ACSF)
 - Sought copies of “all documents, letters, emails, communications, reports, research results, analyses, and other such information (the “documentary record”) in the possession of the Monterey Bay National Marine Sanctuary and the Office of National Marine Sanctuaries with respect to a conclusion by those administrative entities that there is a “need” for Marine Protected Areas (MPAs) to be established within the Monterey Bay National Marine Sanctuary.”



FOIA Steps To Date (cont.)



- **October 9, 2008:** MBNMS notified of FOIA Request and instructed by ONMS to develop a “fee estimate” based on the search time and number of pages of documents pertinent to the request
- **October 28, 2008:** MBNMS provides “fee estimate” of ONMS
- **November 3, 2008:** ONMS provides “fee estimate letter” to James Walsh of approximately \$9000 to search for and copy requested documents. Because estimate exceeds \$250, advanced payment is requested before initiating document search. Based on FOIA regulations, process stops until payment is received.
- **November 6, 2008:** James Walsh meets with NOS Assistant Administrator and ONMS Director, requests fee waiver



FOIA Steps To Date (cont.)



- **November 11, 2008:** James Walsh submits formal “fee waiver request” and provides justification to ONMS
 - Unfortunately, it was not realized that a copy of letter had not been provided to MBNMS until April 2, 2009
- **December 2, 2008:** MBNMS responds to Mr. Walsh’s “fee waiver request” and seeks further clarification of document request so waiver request can be better evaluated (NOTE: MBNMS was not aware of previously provided justification)
- **December 8, 2008:** Mr. Walsh responds to MBNMS letter and requests meeting to discuss further
- Because of implicit threat of litigation, MBNMS seeks participation of NOAA General Counsel, causing meeting scheduling delays



FOIA Steps To Date (cont.)



- **December 12, 2008:** MBNMS's Mike Eng meets informally with Steve Scheiblauber during SAC meeting and discusses how to proceed. Formal meeting to clarify FOIA request is postponed, pending additional internal consultations within ACSF.
- **March 18, 2009:** AMBAG submits "Letter of Support" for ACSF's "fee waiver request" to NOAA
- **March 26, 2009:** Mr. Walsh reiterates "fee waiver request" and response to FOIA request
- **May 1, 2009:** ONMS send letter to Mr. Walsh agreeing to waive fee and requests follow up with MBNMS directly to clarify scope of FOIA request
- **May 8, 2009:** Per request of Mr. Walsh, MBNMS's Mike Eng meets with Steve Scheiblauber to clarify scope of FOIA request



FOIA Steps To Date (cont.)



- **May 18, 2009:** MBNMS provides Mr. Walsh with “Documents Plan” for responding to his FOIA request. Commits to forwarding MBNMS and WCR documents to ONMS by end of June.
- MBNMS is on track to meet this target date. Unclear how long it will take for ONMS to review and ultimately provide documents to Mr. Walsh. Will have revised estimate from ONMS after documents are forwarded to them by MBNMS.



Revisions to FOIA Guidance



- **January 21, 2009:** President Obama issues Memorandum on implementation of FOIA to Executive Branch Department and Agency heads, emphasizing transparency and responsiveness
- **March 19, 2009:** Attorney General Holder provides revised guidance to federal agencies for responding to FOIA requests
- **April 15, 2009:** US Department of Commerce issues its revised guidance on FOIA requests
- **May 1, 2009:** NOAA issues its revised FOIA guidance



Steps To Date (cont.)



- ✓ **October 2008:** Release of Final Management Plan for MBNMS
 - Significant Overlapping Strategies Among:
 - Fishing Related Education and Research Action Plan
 - Bottom Trawling and Benthic Habitats Action Plan
 - Marine Protected Area Action Plan
 - FY10 Priorities: Integrate, coordinate, sequence the implementation of closely related strategies and activities



Steps To Date (cont.)



➤ **Fishing Related Education and Research Action Plan - Key FY10 Strategies:**

- “Voices of the Bay” – students learning the ecological and human dimensions of marine resource use/management
 - Balance in the Bay – sustainable fisheries management
 - From Ocean to Table – costs for fishermen, processing, transportation, marketing, sale
 - Capturing the Voices of the Bay – students interviewing fishermen to capture their stories and knowledge
- Work with fishermen to establish a Commercial Fishing Working Group
- Support efforts by The Nature Conservancy to establish a Community Fishing Association to receive groundfish ITQ



Steps To Date (cont.)



- **Bottom Trawling and Benthic Habitat Action Plan - Key FY10 Strategies:**
 - Identify habitats vulnerable to impacts of bottom trawling
 - Continue partnering with The Nature Conservancy on research to assess and reduce impacts of bottom trawling on benthic habitats
 - Assess trawl activity in MBNMS
 - Generate socioeconomic profile of local trawl fishery
 - Compile database of all overlapping regulations and restrictions
 - Support research with fishermen seeking to transition towards less impactful fishing methods
 - Partner with fishermen to retrieve lost fishing gear



Steps To Date (cont.)



- **Marine Protected Area Action Plan - Key FY10 Strategies:**
 - Develop interagency coordination mechanisms for implementing state MPAs
 - Support research by Sea Grant and CalPoly on using MPAs for alternative sub-regional stock assessments
 - Explore opportunities for Integrated Management System with other co-managers within MBNMS
 - Identify common goals with NMFS, PFMS and CDFG
 - Working with agency partners, conduct an **Integrated Ecosystem Assessment** (IEA) to assess tradeoffs among multiple management objectives and inform marine spatial planning and multi-agency decision-making processes



Why an Integrated Ecosystem Assessment?



- NOAA's 2009-2014 Strategic Plan for carrying out agency's mission
 - **Ecosystem Goal:** *to protect, restore, and manage the use of coastal and ocean resources through an ecosystem approach to management*
 - **Ecosystem Approach to Management:** *a geographically specified, adaptive approach that takes account of ecosystem knowledge and uncertainties, considers multiple external influences, and strives to balance diverse social objectives.*
- IEAs have been identified by NOAA scientists as critical scientific tool for supporting implementation of ecosystem approach to ocean resource management



What is an Integrated Ecosystem Assessment?



- IEAs provide a comprehensive framework for ecosystem-based resource decision-making
- IEAs provide a formal synthesis and quantitative analysis of knowledge and data on ecological and socioeconomic factors collected from multiple sources in relation to attaining specified ecosystem management objectives
- IEAs actively involve citizens, stakeholders, business and industry representatives, scientists, resource managers and policy makers in a formal process of evaluating potential management options for achieving ecosystem management objectives
- IEAs are peer reviewed by scientists and communicated to stakeholders, resource managers, and policy makers



1) Scoping

- Identify management objectives and constraints
- Define ecosystem to be assessed
- Identify ecosystem attributes of concern
- Identify relevant stressors to the chosen ecosystem

2) Develop Ecosystem “Indicators”

- Proxy measurements for the attributes of concern
 - e.g., *resiliency to ocean acidification* could be attribute of interest and *species diversity* could be an indicator for resiliency
 - e.g., *economically sustainable fisheries* could be attribute of interest and *ex vessel catch value/number of vessels* could be the indicator selected
- Indicators highlight what it is most important to monitor, even when funding is limited



3) Risk Analysis

- What is risk to the indicators posed by human activities and natural processes?
- Highly rigorous, quantitative analysis of susceptibility of indicator to natural or human threats and the ability of that indicator to rebound after a significant disturbance
- Also evaluates risk of socioeconomic impacts to individuals and communities

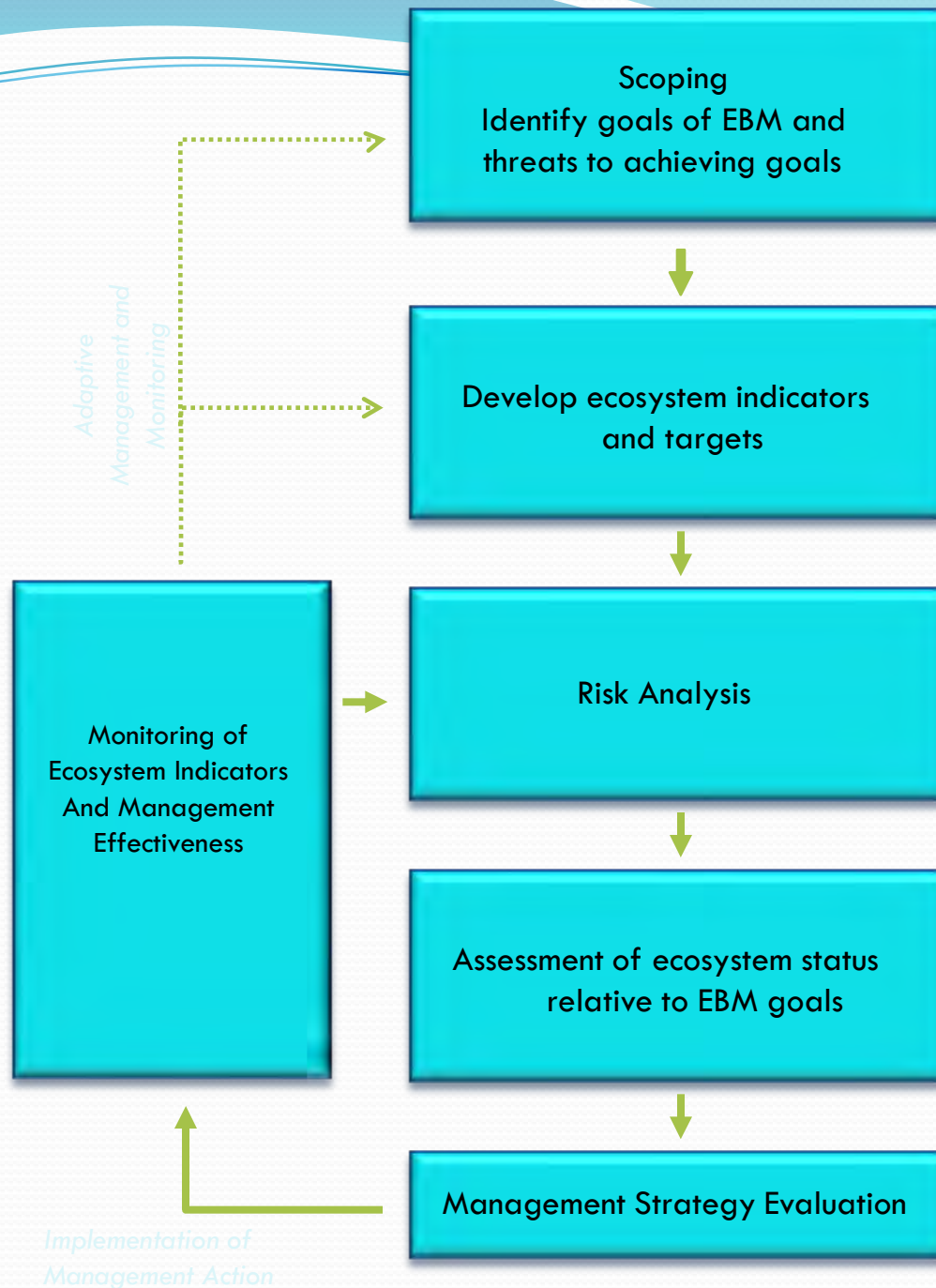
4) Assessment of Ecosystem Status Relative to Goals

- Quantitatively considering the status of all the relevant indicators, can the identified goals be achieved
- Is the ecosystem capable of providing all the services desired?



5) Management Strategy Evaluation

- Different potential management scenarios are evaluated using appropriate models to determine if they are likely to positively influence the identified human and ecological indicators and therefore achieve the desired management objectives
- IEAs are scientifically peer reviewed
- IEAs can be updated as new data becomes available
- When new factors are identified, e.g., sea temperature rise or ocean acidification, risks can be reevaluated and new management scenarios considered





Potential Partners in an IEA?



- Still to be determined. Potential partners might include:
 - **NOAA:** MBNMS, GFNMS, CBNMS, OCNMS, NMFS/NWR, NMFS/SWR, PFMCI, NWFSC, SWFSC, CSC, Sea Grant
 - CA Resources Agency: CDFG, MLPA Initiative
 - Academic institutions
 - Nongovernmental Organizations
 - Stakeholders
 - Interested Public



Potential Applications of IEA



- IEAs provide scientific basis for improved interagency collaboration on ecosystem-based management (EBM) and to inform variety of NEPA planning and decision processes
- Potential applications of West Coast IEA:
 - ✓ MBNMS's MPA planning, design and siting process
 - ✓ Boundary expansion planning for GFNMS and CBNMS
 - ✓ Endangered species conservation and recovery planning
 - ✓ Essential Fish Habitat (EFH) review and modifications
 - ✓ Ecosystem Fishery Management Plan (EFMP) process
 - ✓ "Marine Spatial Planning" on West Coast
 - ✓ TNC's "conservation easement" that will accompany its transfer of ITQ



President Obama's Ocean Policy Memo



- **June 12, 2009:** Interagency Ocean Policy Task Force, chaired by Council for Environmental Quality, to provide recommendations to the President

By September 12, 2009, recommend a new national policy:

- ✓ Ensures the protection, maintenance, and restoration of the health of the ocean
- ✓ Ensures the sustainability of ocean and coastal economies
- ✓ Preserves our maritime heritage
- ✓ Provides for adaptive management to understand and respond to climate change
- ✓ Framework for improving coordination and collaboration among federal, state, tribal, and local authorities in implementing recommended policy



President Obama's Ocean Policy Memo



By December 12, 2009:

- ✓ Framework for coastal and marine spatial planning
- ✓ Should be comprehensive, integrated, ecosystem-based approach that addresses conservation, economic activity, user conflict, and sustainable use of ocean resources



Next Steps in IEA Planning Process



- ✓ Formation of a MBNMS/NMFS Interagency Team to develop proposed framework for collaboratively pursuing an Integrated Ecosystem Assessment (IEA)
- ✓ Key questions and issues to be address:
 - **What should be the geographic scope for the IEA?**
 - California Current Large Marine Ecosystem, i.e., US West Coast?
 - Sub-regions: “Cape to Cape”, e.g., Pt. Conception to Pt. Mendocino; MBNMS/GFNMS/CBNMS?



Next Steps in IEA Planning Process



Key questions (cont.)

- **What ecosystem-based management objectives should be considered for analysis by the IEA?**
 - Siting of MPAs?
 - Modifying Essential Fish Habitat closures?
 - Promoting sustainable fisheries?
 - Protecting critical habitat for endangered species?
 - Ensuring economically sustainable fishing communities?
- **How would the participating partners work together to produce the IEA?**
 - Roles? Timelines? Quality Control? Review procedures?
 - Dispute resolution?



Next Milestones



- ✓ Update to the SAC (August 21st)
- ✓ Joint proposal by NMFS/MBNMS to PFMC (September 13th)
- ✓ Prepare joint cross-cutting NMFS/ONMS FY10 funding proposal to NOAA (September 30th)
- ✓ Recruit additional participants (October-December)
- ✓ Begin scoping (January 2010)